STRAITS SETTLEMENTS REPORTS.

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[ORIGINAL CIVIL JURISDICTION]

AITKEN, J.

October 6, 1939.

Re KANA MOONA SYED ABUBAKAR DECEASED. KHATIJAH NACHIAR

v.

SULTAN ALLAUDIN AND THE ASSISTANT OFFICIAL ASSIGNEE, PENANG & OTHERS.

[PENANG CIVIL SUIT No. 179 of 1936]

Solicitor's bill of costs—Taxation—Getting-up fee.

On a review of taxation the Judge will not interfere with the decision of the taxing officer on a mere question of quantum unless very exceptional circumstances are present. If however the Registrar applies in writing the Judge will review the taxation. On the question of the allowance or non allowance of a getting up fee the true test to apply is not whether or no an issue has proceeded to trial but whether or no an advocate and solicitor has acted reasonably and properly in getting up his client's case in readiness for trial. If he has done so he is entitled to a getting-up fee regardless of whether the case has actually proceeded to trial or not. In Schedule C of the Rules of the Supreme Court item No. 79 includes a summons in chambers which has been adjourned into Court as well as an originating summons. With regard to fees for attendance in Court on the hearing of the case there is a working arrangement in Penang that these fees are allowed proportionately according to the time engaged, $200/- on the higher scale being regarded as the fee for four hours work in Court and shorter periods are remunerated proportionately. Whether this arrangement is in accordance with item No. 189 of the schedule or not the Court considers that it is a reasonable working arrangement and will not set aside a taxation based on the same.

Case referred to—

(1) *Looi Guan Kway v. Low Lean Bok* 8 M.L.J. 224.

SUMMONS.

E. Isaac for plaintiff.

N. Raghavan for first defendant.

T. E. Conaghan for Official Assignee.

M. A. K. Cassim for M. M. Marican bin Meeran Hussain.

The facts and arguments appear sufficiently from the judgment.

Cur. Adv. Vult.

Aitken, J.—This is an application on the part of the Assistant Official Assignee at Penang, asking me to review the Registrar's taxation of two items in the applicant's bill of costs dated the 25th of August, 1939. The first of these items is a "getting up" fee which was reduced from $500 to $200 by the learned Registrar, and the second is an "attendance" fee which was reduced from $100 to $80. In order to deal with the questions raised by this application to review I think it is desirable that I should indicate, as briefly as possible, how the Assistant Official Assignee came to be involved in this litigation.

The plaintiff and first defendant are the executors and trustees of the will of the late Kana Moona Syed Abubakar bin Mohamed Ismail deceased, who died at Penang on the 2nd of August, 1935. Within a few days of his death disputes began between the plaintiff and first defendant, and the plaintiff consulted a firm of solicitors here in regard to a citation in connection with the probate of the testator's will which the first defendant had served upon her. Acting on their advice she joined with the first defendant in applying for probate of the testator's will; and on the 10th of September, 1935, probate thereof was granted to the plaintiff and the first defendant. Up to date, however, it would seem that this grant of probate has not been extracted mainly owing to the continued and acute differences between them.

The testator's family at the time of his death consisted of the following persons:—

The plaintiff his widow;

The first defendant his son by another wife who predeceased the testator;

Mohamed Mydin Merican his grandson by a deceased daughter of his other wife;

Sheriffa Bee his daughter by the plaintiff;

Ayeshe Beevi, the infant child of Sheriffa Bee; and

Three other infant grandchildren named Mohamed Ismail, Hawabee and Mariambee respectively, being the children of a deceased daughter of the testator and the plaintiff named Siddick Fatimah.

By his will the testator made provision for all these members of his family, and for his son-in-law, one Meera Hussain, who died shortly after the testator. I need not say anything about these provisions except that the testator postponed the distribution of the corpus of his estate until the death of the plaintiff, on which date it is to become divisible amongst his son the first defendant, his grandson Mohamed Mydin Merican, his daughters Sheriffa Bee and his grandchildren by his and the plaintiff's deceased daughter as therein mentioned. In the meantime the income is payable to the plaintiff, the first defendant, Mohamed Mydin Merican, Sheriffa Bee and the infant grand-

children of the deceased daughter for the purposes and in the shares therein mentioned.

Prominent amongst the properties comprised in the testator's estate is a plot of land with the building erected thereon which is situate in Penang Road, Penang, and is known as "Theatre Royal." For probate purposes it was valued at the sum of $50,000/- and at the time of the testator's death the lessees thereof were paying a monthly rental of $625/-. Towards the end of 1936 certain repairs and improvements were effected, and from the 19th of March, 1937, the testator's estate has been in receipt of a monthly rental of $980/- from these premises. It may well be that this rental is somewhat in excess of the real value of the "Theatre Royal" as a cinema theatre, but the present lease under which this $980/- per month is payable is not due to expire until the 1st of April, 1943.

I have already referred to the disputes between the plaintiff and the first defendant which began soon after the testator's death. They rapidly became more acute, and on the 10th of August, 1938, the plaintiff, in her personal capacity, began an action against the first defendant in his capacity of executor and trustee, claiming (*inter alia*):—

1. An account of all the real and personal property belonging to the testator come to the hands of the first defendant as executor and trustee;
2. An account of the rents and profits of the said property come to the hands of the first defendant;
3. Appointment of a Receiver;
4. If and so far as necessary administration of the estate of the testator.

By an order of the 25th of September, 1936, Messrs. E. V. C. Thomson and H. B. Noon were appointed Receivers and Managers of the testator's estate until the trial of the action or further order, and entered upon their duties as such without delay. Thereafter the action proceeded in a somewhat leisurely manner. On the 3rd of December, 1936, the Statement of claim was delivered. On the 20th of August, 1937, Sheriffa Bee, Mohamed Mydin Merican and one Mohamed Hussain were given leave to attend the proceedings. On the 9th of October, 1937, the statement of defence was delivered. It seems clear that the solicitors on both sides were trying hard to arrive at terms of settlement, and when the action was eventually set down for trial in July, 1938, I think the solicitors on both sides hoped to obtain a consent judgment which would put an end to further litigation between the parties and yet preserve the corpus of the estate for the beneficiaries under the testator's will.

With a view to binding all those beneficiaries an order of court was obtained on the 9th of July, 1938, whereby—

(a) The Registrar was appointed to represent and defend on behalf of the estate of the testator's deceased son-in-law Meera Hussain and "the class of legatees under clause 8 of the (testator's) will" (which deals with the testator's interest under a contract to supply labour to the Penang Harbour Board); and

(b) The first defendant was appointed to represent "the class of residuary legatees under the said will."

The plaintiff's then solicitors entered an appearance for the Registrar, and the first defendant consulted his own solicitors only in regard to the interests of the beneficiaries who become entitled to the corpus of the testator's estate on the death of the plaintiff.

On the 12th of August, 1938, Howes, J. gave a judgment which, for all practical purposes, embodied the terms of settlement at which the then solicitors for the plaintiff and the first defendant's solicitors had arrived. The first defendant consented to such judgment but the plaintiff, contrary to the advice of her then solicitors, objected to any settlement of the action. Her objections, though noted down by the learned Judge, were over-ruled by him as he considered that the agreed terms of settlement were "fair and for the benefit of all the beneficiaries." It does not seem to have occurred to any one, at that time, that the first defendant was not the proper person to represent the testator's infant grandchildren since his interests under the testator's will are by no means the same as theirs.

Amongst the terms of settlement embodied in the judgment of the 12th of August, 1938, and perhaps the most controversial of them, was an arrangement whereby the first defendant was to be allowed to purchase the Theatre Royal for a sum of $80,000/- of which $15,000/- was to be paid in cash, and the balance of $65,000/- was to be secured by a mortgage of the theatre, and to bear interest at the rate of 6 per centum per annum until repaid.

Now I do not doubt for a moment that the solicitors on both sides (*i.e.* the plaintiff's and the first defendant's) were sincerely anxious to save the testator's estate from further wasteful litigation, but the steps which they took to achieve that very desirable object were scarcely on a par with the excellence of their intentions. The plaintiff immediately changed her solicitors and then lodged an appeal against the judgment, and the fact that the learned Judge ordered this sale to proceed despite the plaintiff's appeal did not simplify the position. Both sides prepared for a fight to the finish, and eminent counsel who usually reside and practise at Singapore were engaged to appear for the plaintiff and the first defendant respectively on the hearing of the appeal.

The hearing in the Court of Appeal commenced on the 10th of March, 1939, and it quickly became apparent that all parties interested in the testator's estate were not properly before the Court. The Court of Appeal, therefore, with this difficulty first of all, and on the 13th of that month made an order setting aside Howes J's. judgment of the 12th of August 1938 and, amongst other such provisions, appointing the Assistant Official Assignee to represent the interests of the testator's infant grandchildren with liberty to engage a solicitor. It was in this way that the Assistant Official Assignee became a party to this action, and Mr. T. Conaghan was the solicitor he engaged.

When this case came on for a further hearing in the Court of Appeal on the 15th of March, 1939, all parties interested were properly before the Court, and a consent judgment was given whereby it was ordered (1) that the testator's estate should be administered by the Court, and (2) that Messrs. E. V. C. Thomson and H. B. Noon should continue to be the Receivers and Managers of the estate until distribution thereof or further order. The judgment then referred no fewer than seven inquiries about different parts of the testator's estate to Messrs. Evatt & Co., Accountants and Auditors, under s. 14 of the Arbitration Ordinance, and directed this Court to inquire whether or not the sale of the Theatre Royal to the first defendant was for the benefit of the testator's estate. If this Court should find that the sale was not for the benefit of the testator's estate, it is to give all such directions as may be necessary to fully set all parties back in the position in which they would have been had it not been made. There are other provisions in that judgment of the Court of Appeal, but I need not mention them here as they are not relevant to this application.

I think that these proceedings before Howes J. and the Court of Appeal may have cooled the ardour of the plaintiff and must have cooled that of the first defendant. At any rate negotiations were opened for a settlement by the latter's solicitors, which embodied an offer on his part to re-convey the Theatre Royal to the testator's estate without any previous inquiry as directed by the judgment of the Court of Appeal. The negotiation made considerable progress, and on the 15th of June, 1939, the plaintiff's solicitor took out a summons in chambers before me asking me (*inter alia*) to make an order dispensing with the inquiry about the sale of the Theatre Royal, which the Court of Appeal had ordered, and to give the necessary directions for a re-conveyance of that theatre to the executors and trustees of the testator's estate.

This summons in chambers was adjourned into open court and came before me for hearing on the 6th of July, 1939. All parties added by the order of Court of Appeal were represented, and the proceedings took one hour and forty minutes in all. Counsel who appeared (including Mr. Conaghan) had to satisfy me (1) that I could dispense with an inquiry ordered by the Court of Appeal, and (2) that it was for the benefit of the testator's estate that the sale of the Theatre Royal should be set aside and that theatre re-conveyed to the testator's estate. The principal burden of satisfying me on the second of these points rested on Mr. Conaghan, because I was, and still am, very doubtful whether such a setting aside and re-conveyance is in the best interests of the testator's infant grandchildren. Eventually I approved of the parties waiving the inquiry ordered by the Court of appeal, and gave the necessary directions for a re-conveyance of the Theatre Royal. In doing so I took the view that when any Court in these Settlements—even though it be the highest—makes an order for an inquiry, the parties interested in that inquiry may waive it if they are all agreed that it should be waived. With reference to the re-conveyance of the Theatre Royal, I placed my chief reliance on a lengthy and careful report thereanent which Mr. Conaghan had prepared; and I overcame my lingering doubts by the reflection that as all interested parties were in favour of such a re-conveyance, it would be neither wise nor safe for me to thwart them. I also allowed all parties their solicitor and client costs of this summons in chambers out of the estate, because it was a proceeding which had resulted in saving the great expense of a prolonged inquiry, and in paving the way for a family appeasement.

When Mr. Conaghan, as solicitor and advocate for the Assistant Official Assignee, brought in his bill of costs for taxation under this order of mine of the 6th of July, 1939, the Registrar reduced his "getting up" fee from $500/- to $200/-, and his attendance fee from $100/- to $80/- by a decision of the 5th of September, 1939.

On the 7th of September, 1939, Mr. Conaghan, on the instructions of his client the Assistant Official Assignee, delivered to the other parties interested and carried before the Registrar an objection in writing to these two reductions or "disallowances" which ends with an application for a review of the same. Order LXII, r. 71 of the Rules of the Supreme Court 1934

is in point, and omitting all purely formal parts Mr. Conaghan's objection and application for review reads as follows:—

> "Take notice that the Official Assignee doth hereby object to the taxation of his Solicitors Bill of Costs in respect of the following items:

"Item	Particulars of Item	Amount claimed	Amount allowed
36	"Getting up case for hearing etc." as set out in detail in the Bill of Costs ..	$500/-	$200/-
40	Attending Court ..	100/-	80/-

The grounds upon which the Official Assignee objects to the taxation are:—

> 1. That the Registrar in considering this item stated on Saturday 2nd September 1939 at the Taxation of these Costs that there was no Trial of the matter.
>
> That the question as to whether there was a Trial or not does not affect the getting up, if in fact there was "getting up" in anticipation of a Trial which did not take place owing to a settlement or partial settlement.
>
> That the Registrar fails to appreciate the amount of work that was necessary to prepare for the Trial.
>
> That the Registrar fails to appreciate that the getting up of a case is the most important part of the conduct of a case and that the advocacy in Court is dependent on the care taken in the getting up. The fee for a day in Court is $200/-.
>
> That the Registrar has failed to appreciate the significance of the factors which he may take into consideration under Order LXII, r. 58 of the Rules of the Supreme Court 1934.
>
> That the amount allowed for the work done is not commensurate with the actual work done.
>
> That the Registrar is wrong in principle in the exercise of his discretion and that he has not exercised same judicially.
>
> That the Registrar has no power to reduce the fee under Item 187 of Schedule C to the Rules of the Supreme Court 1934.
>
> And take further notice that the Official Assignee doth hereby apply to the Registrar of the High Court to review the taxation in respect of the items hereinbefore set out."

The Registrar did not make any fresh appointment for the purpose of considering and reviewing the taxation on Mr. Conaghan's objection, but sent a written answer thereto on the 9th of September 1939. Mr. Conaghan, perhaps not unnaturally, was somewhat aggrieved at this rather summary method of dealing with his objections and application for a review; but Order LXII, r. 72 of our Rules does not appear to make any such fresh appointment obligatory, and when once a judicial officer has heard and determined a matter, it is seldom much good trying to persuade him to alter his decision a few days later on and with no fresh facts or arguments to bring before him. Under our Rules it is necessary to carry in an objection and application for review as a preliminary step to an appeal to the Judge under Order LXII, r. 73, and in most cases I think the Registrar will be saving parties both time and money if he deals with such objections and applications swiftly and summarily.

The Registrar's written answer to Mr. Conaghan's objection reads as follows:—

> "1. Item 36 sets out in full the work done by Mr. Conaghan for 'getting up.' At the time of taxation and after reading the Summons in Chambers I came to the conclusion that all the solicitors were not entitled to 'getting up' in respect of an application in Chambers. I pointed out to Mr. Conaghan that there was no trial, as I considered that the Summons was adjourned into open Court only for the sake of convenience. I, however, reserved my judgment at that time, as I desired to read the report made by Mr. Conaghan.
>
> 2. After taking into consideration the report made by him and all the other items allowed by me in his Bill of Costs, I allowed $200/-, which I consider is fair, the reason being that Mr. Conaghan appeared for the infants and it was necessary that he should prepare a report and inform the Court whether the application was for the benefit of the infants or not.
>
> 3. The day after I had allowed the $200/-, I received the last issue of the Malayan Law Journal, and I find that in a similar case in the F.M.S. no 'getting up' was allowed in respect of a Summons in Chambers in open Court, see 8 M.L.J. 224.
>
> 4. As regards the hearing fee. On referring to the Minute Book I find that the hearing occupied only 1 hour and 40 minutes, and I consider $80/- is a fair figure."

Now I have set out all the facts and circumstances out of which this application to me under Order LXII, r. 73 arises, because I have found great difficulty in dealing with Mr. Conaghan's objection to the reduction of his getting up fee from $500/- to $200/-. I am abundantly satisfied that he went to very great pains indeed to find out whether, or not, it was in the best interests of the testator's infant grandchildren that the sale of the Theatre Royal to the first defendant should be upheld or set aside. If I were the Registrar I should have allowed Mr. Conaghan the greater part of his fee, because I realise that the work he did was very considerable indeed, and was well and properly done. However, I am not the Registrar, and the rule that a Judge must not interfere with the decision of a taxing officer on a mere question of quantum, unless very exceptional circumstances are present, is both settled and of long standing. I suppose that a Judge would be justified in reducing a very exorbitant charge, in the unlikely event of the Registrar allowing one; and *Smith v. Bullu*[1] lends some support to that proposition. *Per contra* I suppose that a Judge would be justified in allowing more than the Registrar has

allowed, if the Registrar's disallowance amounted to an affront to reason and common sense. But where, as in the case of this particular disallowance, two reasonably intelligent men—if I may so describe the Registrar and myself—have taken different views on a question of quantum, and neither of our views appear to be an insult to reason, good conscience and common sense, then the Registrar's view must prevail because he knows far more about taxing than I do, unless he can be shown to have acted on a wrong principle.

In his argument before me Mr. Conaghan contended (1) that the Registrar had not taken into account all the work done by him, Mr. Conaghan, in getting up the case for the infant grand-children, and (2) that the Registrar had acted on a wrong principle in reducing Mr. Conaghan's "getting up fee" on the ground that there had been no trial of the issue as to whether, or not, the sale of the Theatre Royal was for the benefit of the testator's estate.

The first of these contentions can be put forward in regard to every reduction a Registrar makes in the exercise of his discretion when taxing a bill of costs, and I have already explained that I cannot regard the reduction of Mr. Conaghan's getting up fee in this case as obviously and hopelessly opposed to reason and common sense. I need not, therefore, consider this first contention further.

Mr. Conaghan's second contention, however, does raise a question of principle because I have ascertained from the Registrar that he did, in fact, reduce Mr. Conaghan's "getting up fee" for the reason that there had been no trial of the issue about the sale of the Theatre Royal. In doing so I think that he acted on a wrong principle, and that the true test to apply is not whether or no an issue has proceeded to trial, but whether or no a solicitor and advocate has acted reasonably and properly in getting up his client's case in readiness for a trial. In this particular matter a careful perusal of the mass of documents on the Court file has satisfied me that Mr. Conaghan did act reasonably and properly in getting up his client's case for trial. To analyse the developments disclosed by these documents would serve no useful purpose, and it will suffice to point out that from the date of the Court of Appeal's final order, that is, the 15th of March, 1939, right up to the middle of June 1939, it seemed likely that the issue about the Theatre Royal would proceed to trial. Quite apart from that I have already pointed out that the chief burden of satisfying me that I could properly sanction the setting aside of the sale of that theatre fell upon Mr. Conaghan.

For the reasons which I have just given I have come to the conclusion that I must review the Registrar's decision in regard to Mr. Conaghan's "getting up" fee, and upon a consideration of the whole of the facts now before me I have decided to allow him $400/- in respect thereof.

Before I pass on to consider the "attendance" fee item I think I ought to point out that the case of *Looi Guan Kway v. Low Lean Bok & Others*[1], which the Registrar has mentioned, has no application in the Colony. In that case the decision turned entirely on the proper construction of item 86 in the Schedule to the F.M.S. Supreme Court Rule 4 of 1932, which provides for a getting up fee "in respect of any hearing in open Court whether by reason of a plaint, motion, petition or originating summons or upon an issue." Upon the wording of that item I held, for the reasons elaborated in my judgment, that no getting up fee is chargeable in the F.M.S. in the case of a summons in chambers, even though adjourned into Court for argument. The corresponding item in Schedule C to the Rules of the Supreme Court of the S.S. is item 79, which provides for a "getting up fee" in respect of any hearing in open Court whether under writ, motion, petition or summons or upon an issue."

It will be observed that this item 79 allows a getting up fee in respect of the hearing of a "summons" in open Court and there appears to be no reason for holding that the word "summons", as used in item 79, does not include a summons in chambers which has been adjourned into Court. The corresponding item in the F.M.S. Supreme Court Rules, though otherwise almost word for word the same, specifically mentions "originating summons" where the S.S. Supreme Court Rules use the wider expression "summons."

I can now pass on to deal with Mr. Conaghan's objection to the Registrar's reduction of his attendance fee from $100/- to $80/-. The relevant item in Schedule C to our Supreme Court Rules reads as follows:—

	Lower Scale	Higher Scale
"189. In Court or Special case or Special petition or application adjourned from Judge's Chambers, where the solicitor takes part in the arguments or proceeding—per day first day ..	$140/-	$200/-

Mr. Conaghan contended that as the taxation was on the higher scale, and as he did take part in the argument, he was really entitled to $200/-, under this item 189, and therefore, *a fortiori* to the lesser sum of $100/- which was all that he claimed.

Now I am inclined to agree with Mr. Conaghan that the wording of this item 189 gives the Registrar no discretion in the matter of the attendance fees which it prescribes, and that so long as a Solicitor has appeared and taken any part in the argument or proceedings, he is entitled thereunder to the full amount of the prescribed fee whether his actual attendance in Court amounts to a full day's sitting or only a few brief moments.

On the other hand I find that the members of the Bar who practise in Penang have recognised the unwisdom and inexpediency of insisting on the strict letter of the law in regard to these attendance fees, and have come to a working arrangement with the Registrar whereby the $200/- higher scale fee is to be regarded as the reward of four hours work in Court, and shorter periods are to receive proportionately smaller rewards.

In this particular case Mr. Conaghan was in Court for a period of 1 hour and 40 minutes, for which the Registrar allowed him $80/- only instead of the $100/- claimed. Mr. Conaghan's real grievance is that when he was able to get away from Court, less than 20 minutes remained before our inability to exist without food required him to partake of tiffin. He therefore considers that he should have been allowed a full half day's fee on the agreed proportionate scale, because no solicitor can be expected to devote himself to business in so short a period between the successful conclusion of his labours in Court and the commencement of his tiffin.

Here once again I find myself in sympathy with Mr. Conaghan, because the law is an exacting and exhausting profession, and few of us are able to put in any useful thinking in an odd quarter of an hour or so between two important engagements. But why should I interfere with a beneficent discretion which the local Bar have conferred upon the Registrar, and which he has exercised reasonably and with due regard to the actual time Mr. Conaghan spent in Court? It is idle to pretend that any question of principle is at stake and I am certainly not going to ignore or attempt to set aside the very desirable working arrangement which has been established at Penang in regard to these attendance fees. For these reasons I must delcine to interfere with the Registrar's reduction of Mr. Conaghan's attendance fee from $100/- to $80/-.

This concludes a lengthy judgment, and it only remains for me to place on record this fact:—that Mr. Conaghan and all the other Solicitors and advocates concerned in this case have waived their claim to fees for the long morning they spend with me in Chambers over this appeal.

Order accordingly.

Solicitor for plaintiff—*E. Isaac.*

Solicitors for first defendant—*Raghavan & Co.*

Solicitors for Official Assignee—*Wreford & Thornton.*

Solicitor for M. Marican bin Meeran Hussain—*M. A. K. Cassim.*

[ORIGINAL CIVIL JURISDICTION]

AITKEN, J.

November 13, 1939.

K.S.R.M. VEERAPPA CHETTIAR & ANOTHER

v.

A.T.K.P.L.S.P. SUPRAMANIAN CHETTIAR.

[PENANG SUIT No. 131 of 1939]

Limitation Ordinance, art. 96—Action upon a foreign judgment.

In proceedings in Rangoon the plaintiff firm were sued by the defendants and judgment was given against the plaintiffs for Rs. 30,881/15/3 together with interest and costs. The plaintiff firm appealed against that decree but were unable to obtain a stay of execution and as the result of such execution the defendant obtained Rs. 20,000 from the plaintiff firm. On the 2nd December 1931 when the case came before the Appellate Court in Rangoon the appeal was allowed and the judgment reversed. The Appellate Court however was not able to give relief by way of restitution and the plaintiff firm thereafter had to apply to the Court of first instance itself for an order to give effect to the relief to which the plaintiff firm were entitled under the decree of the appellate division. The date of the judgment of the Court of Appeal was 11th May 1933. The Court of first instance made an order directing restitution of Rs. 22,690 with interest and costs, the date of such decree being 10th July 1933. On 7th July 1939 this action was commenced in Penang.

Held, that as the judgment of the Court of Appeal gave no positive relief to the plaintiff firm the plaintiff firm were correct in suing upon the restitution decree of the 10th July 1933 rather than upon the judgment of the Appeal Court in Rangoon and that accordingly the suit was not barred by limitation.

Case referred to:

(1) *Maung Hea v. Mo Huaw Dank*, 1930 A.I.R. (Rangoon), 241.

TRIAL OF ACTION.

N. Raghavan for plaintiffs.

R. D. Hume for defendant.

The facts and arguments sufficiently appear from the judgment.

Cur. Adv. Vult.